

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

UNITED STATES OF AMERICA

v.

CRIMINAL ACTION NO. 2:11-00105

KEVIN T. ERWIN

SUPERVISED RELEASE REVOCATION AND JUDGMENT ORDER
MEMORANDUM OPINION AND ORDER

On May 12, 2016, the United States of America appeared by Eric P. Bacaj, Assistant United States Attorney, and the defendant, Kevin T. Erwin, appeared in person and by his counsel, Ann Mason Rigby, Assistant Federal Public Defender, for a hearing on the petition on supervised release and amendment thereto submitted by United States Probation Officer Justin L. Gibson. The defendant commenced a thirty-one month term of supervised release in this action on January 21, 2016, as more fully set forth in the Supervised Release Revocation and Judgment Order entered by the court on January 21, 2016.

The court heard the admissions of the defendant and the representations and argument of counsel.

For reasons noted on the record of this proceeding, which are ORDERED incorporated herein by reference, the court found that the defendant has violated the conditions of supervised release in the following respects: (1) the defendant failed to abide by the special condition that he participate in and successfully complete the long-term residential addiction recovery program at Four Seasons Recovery Center in Bluefield, West Virginia, for a period of nine to twelve months inasmuch as he entered the program on January 21, 2016, and left the program of his own accord on March 12, 2016, and did not return, rendering his whereabouts unknown until his arrest on the petition on April 6, 2016; and (2) the defendant used and possessed controlled substances as evidenced by his admission to the probation officer on April 7, 2016, that he had used heroin on or about March 31, 2016, and methamphetamine on or about April 4, 2016; all as admitted by the defendant on the record of the hearing and all as set forth in the petition on supervised release and amendment thereto.

And the court finding, as more fully set forth on the record of the hearing, that the violations warrant revocation of supervised release and, further, that it would unduly depreciate

the seriousness of the violations if supervised release were not revoked, it is ORDERED that the supervised release previously imposed upon the defendant in this action be, and it hereby is, revoked.

And the court having complied with the requirements of Rule 32(a)(1)(B) and (C) of the Federal Rules of Criminal Procedure, and finding, after considering the factors set forth in 18 U.S.C. § 3583(e), that the defendant should be confined to the extent set forth below, it is accordingly ORDERED that the defendant be, and he hereby is, committed to the custody of the United States Bureau of Prisons for imprisonment for a period of FIVE (5) MONTHS, to be followed by a term of twenty-five (25) months of supervised release upon the standard conditions of supervised release now in effect in this district by order entered June 22, 2007, and the further condition that the defendant not commit another federal, state or local crime and the special condition that he spend a period of five (5) months at Dismas Charities and follow the rules and regulations of the facility, and participate in drug abuse counseling and treatment as directed by the probation officer.

Restitution is reimposed in the amount of \$193.17 and the defendant shall make monthly payments at the rate of \$25 per month commencing on January 1, 2017, with payment due on the first day of each month thereafter until paid in full.

The defendant was remanded to the custody of the United States Marshal.

The Clerk is directed to forward copies of this written opinion and order to the defendant, all counsel of record, the United States Probation Department, and the United States Marshal.

DATED: May 23, 2016


John T. Copenhaver, Jr.
United States District Judge